

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

NUANCE COMMUNICATIONS, INC.,)	
)	
Plaintiff,)	
)	C.A. No. _____
v.)	
)	
VLINGO CORP.,)	DEMAND FOR JURY TRIAL
)	
Defendant.)	

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Nuance Communications, Inc. ("Nuance") hereby pleads the following claims for patent infringement against Defendant Vlingo Corp. ("Vlingo"):

THE PARTIES

1. Plaintiff Nuance is a corporation organized and existing under the laws of the State of Delaware, having its principal place of business at 1 Wayside Road, Burlington, Massachusetts 01803.

2. On information and belief, Vlingo is a corporation organized and existing under the laws of the State of Delaware, having its principal place of business at 17 Dunster Street, Cambridge, Massachusetts 02138.

JURISDICTION AND VENUE

3. This is an action for patent infringement under the Patent Laws of the United States of America, 35 U.S.C. §§ 1 *et seq.*, including 35 U.S.C. § 271. This Court has subject matter jurisdiction over the matters pleaded herein under 28 U.S.C. §§ 1331 and 1338(a).

4. This Court has personal jurisdiction over Vlingo. Vlingo is a Delaware corporation and hence is organized and exists under the state laws of this judicial district.

Moreover, Vlingo has done business generally in this judicial District, has committed and continues to commit acts of patent infringement in this judicial district, and has harmed and continues to harm Nuance in this judicial district by, among other things, using, distributing, selling, and offering for sale infringing voice recognition products and services in this judicial district.

5. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(a) and 1400(b) because Vlingo is a Delaware corporation and hence resides in this judicial district. Moreover, Vlingo is subject to personal jurisdiction and has, among other things, done substantial business in this district and has committed acts of infringement in this judicial district.

FIRST CLAIM FOR RELIEF FOR PATENT INFRINGEMENT

Infringement of U.S. Patent No. 6,487,534 B1

6. Nuance hereby incorporates the allegations of Paragraphs 1 through 5 as if fully set forth herein.

7. United States Patent No. 6,487,534 B1 (“the ‘534 patent”), entitled “Distributed Client-Server Speech Recognition System,” was duly and legally issued on November 26, 2002. Nuance is the owner by assignment of all right, title and interest in and to the ‘534 patent. A copy of the ‘534 patent is attached as Exhibit A.

8. Vlingo has infringed and is currently infringing the ‘534 patent in violation of 35 U.S.C. § 271 by, among other things, making, using, selling, offering to sell, and/or importing its products and services related to speech recognition within this judicial district and elsewhere in the United States, without authority or license from Nuance. Vlingo also has infringed and continues to infringe the ‘534 patent by actively inducing infringement

and/or contributorily infringing the '534 patent. Vlingo is therefore liable to Nuance under 35 U.S.C. § 271.

9. On information and belief, Vlingo's infringement of the '534 patent is and continues to be willful and deliberate, entitling Nuance to treble damages under 35 U.S.C. § 284.

10. Vlingo's acts of infringement have caused damage to Nuance, and Nuance is entitled to recover from Vlingo the damages sustained as a result of Vlingo's wrongful acts in an amount yet to be determined and subject to proof at trial.

11. Unless enjoined, Vlingo's infringement of Nuance's rights under the '534 patent will continue to damage Nuance, causing Nuance irreparable injury as a direct and proximate result of Vlingo's conduct. As a result, and pursuant to 35 U.S.C. § 285, Nuance is entitled to an injunction against further infringement.

SECOND CLAIM FOR RELIEF FOR PATENT INFRINGEMENT

Infringement of U.S. Patent No. 6,785,653 B1

12. Nuance hereby incorporates the allegations of Paragraphs 1 through 5 as if fully set forth herein.

13. United States Patent No. 6,785,653 B1 ("the '653 patent"), entitled "Distributed Voice Web Architecture and Associated Components and Methods," was duly and legally issued on August 31, 2004. Nuance is the owner by assignment of all right, title and interest in and to the '653 patent. A copy of the '653 patent is attached as Exhibit B.

14. Vlingo has infringed and is currently infringing the '653 patent in violation of 35 U.S.C. § 271 by, among other things, making, using, selling, offering to sell, and/or importing its products and services related to speech recognition within this judicial district and elsewhere in the United States, without authority or license from Nuance. Vlingo

also has infringed and continues to infringe the ‘653 patent by actively inducing infringement and/or contributorily infringing the ‘653 patent. Vlingo is therefore liable to Nuance under 35 U.S.C. § 271.

15. On information and belief, Vlingo’s infringement of the ‘653 patent is and continues to be willful and deliberate, entitling Nuance to treble damages under 35 U.S.C. § 284.

16. Vlingo’s acts of infringement have caused damage to Nuance, and Nuance is entitled to recover from Vlingo the damages sustained as a result of Vlingo’s wrongful acts in an amount yet to be determined and subject to proof at trial.

17. Unless enjoined, Vlingo’s infringement of Nuance’s rights under the ‘653 patent will continue to damage Nuance, causing Nuance irreparable injury as a direct and proximate result of Vlingo’s conduct. As a result, and pursuant to 35 U.S.C. § 285, Nuance is entitled to an injunction against further infringement.

THIRD CLAIM FOR RELIEF FOR PATENT INFRINGEMENT

Infringement of U.S. Patent No. 6,839,669 B1

18. Nuance hereby incorporates the allegations of Paragraphs 1 through 5 as if fully set forth herein.

19. United States Patent No. 6,839,669 B1 (“the ‘669 patent”), entitled “Performing Actions Identified in Recognized Speech,” was duly and legally issued on January 4, 2005. Nuance is the owner by assignment of all right, title and interest in and to the ‘669 patent. A copy of the ‘669 patent is attached as Exhibit C.

20. Vlingo has infringed and is currently infringing the ‘669 patent in violation of 35 U.S.C. § 271 by, among other things, making, using, selling, offering to sell, and/or importing its products and services related to speech recognition within this judicial

district and elsewhere in the United States, without authority or license from Nuance. Vlingo also has infringed and continues to infringe the ‘669 patent by actively inducing infringement and/or contributorily infringing the ‘669 patent. Vlingo is therefore liable to Nuance under 35 U.S.C. § 271.

21. On information and belief, Vlingo’s infringement of the ‘669 patent is and continues to be willful and deliberate, entitling Nuance to treble damages under 35 U.S.C. § 284.

22. Vlingo’s acts of infringement have caused damage to Nuance, and Nuance is entitled to recover from Vlingo the damages sustained as a result of Vlingo’s wrongful acts in an amount yet to be determined and subject to proof at trial.

23. Unless enjoined, Vlingo’s infringement of Nuance’s rights under the ‘669 patent will continue to damage Nuance, causing Nuance irreparable injury as a direct and proximate result of Vlingo’s conduct. As a result, and pursuant to 35 U.S.C. § 285, Nuance is entitled to an injunction against further infringement.

FOURTH CLAIM FOR RELIEF FOR PATENT INFRINGEMENT

Infringement of U.S. Patent No. 7,058,573 B1

24. Nuance hereby incorporates the allegations of Paragraphs 1 through 5 as if fully set forth herein.

25. United States Patent No. 7,058,573 B1 (“the ‘573 patent”), entitled “Speech Recognition System to Selectively Utilize Different Speech Recognition Techniques Over Multiple Speech Recognition Passes,” was duly and legally issued on June 6, 2006. Nuance is the owner by assignment of all right, title and interest in and to the ‘573 patent. A copy of the ‘573 patent is attached as Exhibit D.

26. Vlingo has infringed and is currently infringing the ‘573 patent in violation of 35 U.S.C. § 271 by, among other things, making, using, selling, offering to sell, and/or importing its products and services related to speech recognition within this judicial district and elsewhere in the United States, without authority or license from Nuance. Vlingo also has infringed and continues to infringe the ‘573 patent by actively inducing infringement and/or contributorily infringing the ‘573 patent. Vlingo is therefore liable to Nuance under 35 U.S.C. § 271.

27. On information and belief, Vlingo’s infringement of the ‘573 patent is and continues to be willful and deliberate, entitling Nuance to treble damages under 35 U.S.C. § 284.

28. Vlingo’s acts of infringement have caused damage to Nuance, and Nuance is entitled to recover from Vlingo the damages sustained as a result of Vlingo’s wrongful acts in an amount yet to be determined and subject to proof at trial.

29. Unless enjoined, Vlingo’s infringement of Nuance’s rights under the ‘573 patent will continue to damage Nuance, causing Nuance irreparable injury as a direct and proximate result of Vlingo’s conduct. As a result, and pursuant to 35 U.S.C. § 285, Nuance is entitled to an injunction against further infringement.

FIFTH CLAIM FOR RELIEF FOR PATENT INFRINGEMENT

Infringement of U.S. Patent No. 7,127,393 B2

30. Nuance hereby incorporates the allegations of Paragraphs 1 through 5 as if fully set forth herein.

31. United States Patent No. 7,127,393 B2 (“the ‘393 patent”), entitled “Dynamic Semantic Control of a Speech Recognition System,” was duly and legally issued on

October 24, 2006. Nuance is the owner by assignment of all right, title and interest in and to the '393 patent. A copy of the '393 patent is attached as Exhibit E.

32. Vlingo has infringed and is currently infringing the '393 patent in violation of 35 U.S.C. § 271 by, among other things, making, using, selling, offering to sell, and/or importing its products and services related to speech recognition within this judicial district and elsewhere in the United States, without authority or license from Nuance. Vlingo also has infringed and continues to infringe the '393 patent by actively inducing infringement and/or contributorily infringing the '393 patent. Vlingo is therefore liable to Nuance under 35 U.S.C. § 271.

33. On information and belief, Vlingo's infringement of the '393 patent is and continues to be willful and deliberate, entitling Nuance to treble damages under 35 U.S.C. § 284.

34. Vlingo's acts of infringement have caused damage to Nuance, and Nuance is entitled to recover from Vlingo the damages sustained as a result of Vlingo's wrongful acts in an amount yet to be determined and subject to proof at trial.

35. Unless enjoined, Vlingo's infringement of Nuance's rights under the '393 patent will continue to damage Nuance, causing Nuance irreparable injury as a direct and proximate result of Vlingo's conduct. As a result, and pursuant to 35 U.S.C. § 285, Nuance is entitled to an injunction against further infringement.

PRAYER FOR RELIEF

WHEREFORE, Nuance prays for the entry of judgment in favor of Nuance as follows:

- A. That Vlingo has infringed, induced others to infringe, and/or committed acts of contributory infringement of one or more claims of the ‘534, ‘653, ‘669, ‘573 and ‘393 patents (the “Patents-In-Suit”);
- B. That Vlingo, and its affiliates, subsidiaries, directors, officers, employees, attorneys, agents and all persons in active concert or participation with any of them be preliminarily and permanently enjoined from further acts of infringement, inducing infringement, or contributory infringement of the Patents-In-Suit;
- C. That Vlingo pay Nuance damages in an amount adequate to compensate Nuance for Vlingo’s infringement of the Patents-In-Suit, but in no event less than a reasonable royalty, together with interest and costs under 35 U.S.C. § 284;
- D. That Vlingo be ordered to provide an accounting;
- E. That Vlingo be ordered to pay supplemental damages to Nuance, including without limitation interest;
- F. That the infringement be adjudged willful and that the damages be increased under 35 U.S.C. § 284 to three times the amount found or measured;
- G. That this be adjudged an exceptional case and that Nuance be awarded its attorneys’ fees pursuant to 35 U.S.C. § 285;
- H. That Vlingo be required to pay pre- and post-judgment interest on the damages assessed; and

I. That Nuance be awarded such other and further relief as this Court deems just and proper.

DEMAND FOR JURY TRIAL

Nuance hereby demands a trial by jury on all issues so triable.

MORRIS, NICHOLS, ARSHT & TUNNELL LLP

/s/ Rodger D. Smith II

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